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April 19, 2017

Rosemary Chiavetta, Esq., Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor
Harrisburg, Pennsylvania 17120

Re: Rulemaking to Amend the Provisions of 52 Pa. Code, Chapter 56 to Comply with the
Amended Provisions of 66 Pa. C.S. Chapter 14
Docket No. L-2015-2508421

Dear Secretary Chiavetta:

Enclosed for filing please find the comments of the Energy Association of Pennsylvania to the Commission's Notice of Proposed Rulemaking Order at the above-referenced docket.

Sincerely,

A handwritten signature in blue ink, appearing to read "Nicole W. Gear", with a long horizontal flourish extending to the right.

Nicole W. Gear
Manager, Policy & Research

Enclosure

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Rulemaking to Amend the Provisions of
52 Pa. Code, Chapter 56 to Comply with the
Amended Provisions of 66 Pa. C.S. Chapter 14

Docket No. L-2015-2508421

**COMMENTS OF THE
ENERGY ASSOCIATION OF PENNSYLVANIA
TO NOTICE OF PROPOSED RULEMAKING ORDER**

I. INTRODUCTION

On October 22, 2014, Governor Corbett signed into law HB 939 as Act 155 of 2014 (“Act 155”). This law, which became effective on December 22, 2014, reauthorized and amended Chapter 14 of the Public Utility Code (66 Pa. C.S. §§ 1401-1419), Responsible Utility Customer Protection. Chapter 14 protects responsible bill paying residential customers from rate increases attributable to the uncollectable accounts of other residential customers by providing public utilities with the collection tools needed to encourage timelier payment, while simultaneously protecting vulnerable customers and ensuring that utility service continues to be available to all customers on reasonable terms and conditions. The amendments made to Chapter 14 by Act 155 supersede a number of current regulations (52 Pa. Code, Chapter 56) and, as such, the Pennsylvania Public Utility Commission (“PUC” or “Commission”) has been charged with revising current regulations to implement and enforce the amended statute.

On July 21, 2016, the PUC issued a Notice of Proposed Rulemaking Order for Act 155 (“Proposed Rulemaking Order” or “NOPR”) in order to address the areas where the amended

Chapter 14 supersedes the present Chapter 56 regulations. This NOPR follows the Commission-issued December 10, 2014 Secretarial Letter that addressed the more immediate, significant provisions of the statute and existing regulations that were superseded by Act 155. The NOPR also follows a January 15, 2015 Tentative Order¹ which sought input on a number of implementation matters: Section 1403, definition of medical certificate; and Section 1410.1(3) and (4), utility reporting requirements concerning residential accounts with arrearages in excess of \$10,000.00 and annual reporting of medical certificate usage. The Energy Association of Pennsylvania (“EAP” or “Association”) previously submitted comments to the Tentative Order at that time. A Final Order, Chapter 14 Implementation, entered on July 9, 2015, issued guidance as to the form and content of the medical certificate as well as reporting requirements for residential accounts exceeding \$10,000.00 in arrears and for medical certificates.

The NOPR seeks additional input on the guidance issued in July 2015, suggests further regulatory revisions to update definitions, clarifies the 90-day deposit payment period, revises the present credit methodology, and expands Chapter 56 by not only referencing protection from abuse orders (“PFAs”) but also including other court orders that provide clear evidence of domestic abuse. The Commission further seeks to align revisions with other recent regulatory changes such as those in Chapter 57 (relating to electric service) intended to accelerate the switching of electric generation service (52 Pa. Code §§ 57.1 – 57.259) and proposes minor revisions to 52 Pa. Code § 56.100(i) relating to the February winter survey update and the collections reporting data dictionary found in Chapter 56 Appendix C.

¹ Tentative Order, Chapter 14 Implementation, Docket No. M-2014-2448824.

EAP respectfully submits these comments on the Commission’s proposed regulatory changes to Chapter 56 to supplement those filed individually by its electric distribution company (“EDC”) and natural gas distribution company (“NGDC”) members.²

II. COMMENTS

A. Section 56.12 Meter reading; estimated billing; customer readings.

The Commission proposes a new Section 56.12 (6) to read:

“(6) Verification of automatic meter reading. Upon a customer request, the public utility shall secure an in-person meter reading to confirm the accuracy of an automatic meter reading device when a customer disconnects service or a new service request is received. A public utility may charge a fee, as provided in a Commission approved tariff.”

The Commission indicates that the addition of this section is meant to incorporate a new requirement at Section 1411 of the *Public Utility Code* (relating to automatic meter readings) that utilities verify meter readings at the request of the customer.³ EAP is concerned that the proposed language does not include the introductory statement from Section 1411 or from the present definition of *AMR – automatic meter reading* at §52.1 (iii) that reads, “All readings by an automatic meter reader device shall be deemed actual readings for the purposes of this title.” Part of the purpose of Act 129 and its “smart meter” mandate for EDCs was to equip customers and utilities with meters that could be both accurate and efficient in saving utility time and costs associated with having technicians manually read thousands of meters each month. The Commission approves all EDC smart meter plans and the companies have a vested interest in ensuring these meters are accurate. The Chapter 56 regulations should reflect this advance in technology.

² Electric Utility Members: Citizens’ Electric Company; Duquesne Light Company; Metropolitan Edison Company; PECO Energy Company; Pennsylvania Electric Company; Pennsylvania Power Company; Pike County Light & Power Company; PPL Electric Utilities; UGI Utilities, Inc.-Electric Division; Wellsboro Electric Company; and West Penn Power Company. Gas Utility Members: Columbia Gas of Pennsylvania, Inc.; Pike County Light & Power Company; National Fuel Gas Distribution Corp.; PECO Energy Company; Peoples Equitable Division; Peoples Natural Gas Company LLC; Peoples TWP LLC; Philadelphia Gas Works; UGI Central Penn Gas, Inc.; UGI Penn Natural Gas, Inc.; UGI Utilities Inc.; and, Valley Energy Inc.

³ Notice of Proposed Rulemaking Order, L-2015-2508421, Attachment 1, p. 2

B. Section 56.32 Security and cash deposits.

The Commission proposes new language under this section with the addition of the following subsections:

“(d) Failure to pay full amount of cash deposit. A public utility will not be required to provide service if the applicant fails to pay the full amount of the cash deposit within the time period under subsection (a).”

“(e) Cash deposit prohibition. Notwithstanding subsection (a), a public utility may not require a customer that is confirmed to be eligible for a customer assistance program to provide a cash deposit.”⁴

EAP believes subsection (d) requires further clarification. In the process of initiating new service for an applicant, utilities do not wait for the deposit to be paid in full before establishing service in the applicant’s name. The applicant is typically asked to pay 50% of the deposit initially, with 25% of the deposit to be paid after 30 days and the remaining 25% to be paid after 60 days. It does not seem practical for applicants or utilities to wait until the end of a 90-day billing cycle for the deposit to be fully paid in order to establish service. On the other hand, this subsection as written does not leave much room for the utility to begin its normal collections process if the applicant misses one or more of the aforementioned payments in the deposit installment sequence while service is connected and being used. EAP suggests that language be added to the Commission’s proposed addition of subsection (d) to permit utilities to initiate their routine collection practices in the event the applicant fails to pay any portion of the security deposit as required until such time as it is paid in full. EAP’s recommended change to subsection (d) would read:

“(d) Failure to pay full amount of cash deposit. A public utility will not be required to continue to provide service if the applicant fails to pay the cash deposit or any portion thereof billed within the time period under subsection (a).”

⁴ Notice of Proposed Rulemaking Order, L-2015-2508421, Annex A, p. 11

EAP also believes that the Commission needs to define further how a customer is “confirmed to be eligible” for a customer assistance program, as proposed in subsection (e). EAP would suggest language following the present Commission proposed language of subsection (e) be added to read:

(e) Cash deposit prohibition. Notwithstanding subsection (a), a public utility may not require a customer that is confirmed to be eligible for a customer assistance program to provide a cash deposit. A customer is confirmed eligible for a customer assistance program via income verification either by the utility or a third-party. ”⁵

EAP is concerned that the cash deposit prohibition as written by the Commission may leave the door open for customers who verbally claim they are eligible for a customer assistance program in order to get connected, but ultimately never follow up with income verification. In order to address this issue at the start of the application process, we believe future customers should agree to apply for a CAP program, which requires customers to provide verifiable income documents or other information as is routine to determine eligibility, or prove to the utility that their income has been verified through another means, such as receipt of state benefits, e.g., LIHEAP or SNAP. Alternatively, this concern could be addressed by adding a term of “confirmed eligible” with a definition as described above to § 56.2. If accepted, this Association suggestion would also apply to the Commission’s proposed language at § 56.41 (ii)(4) relating to cash deposit prohibitions for customers.

C. Section 56.35 Payment of outstanding balance

Although no substantial changes to this section have been proposed by the Commission, EAP suggests further clarification is needed to assist utilities in addressing residential accounts with arrearages in excess of \$10,000.00, as well as to improving overall their collection results and

⁵ Notice of Proposed Rulemaking Order, L-2015-2508421, Annex A, p. 11

decrease uncollectable balances and write-offs. Section 56.35 (b) presently prohibits a utility from requiring payment for residential services previously furnished under an account in the name of a person other than the applicant as a condition of initiating service again at the same address. While some “name game” loopholes have been closed under paragraphs (1) and (2), situations still arise where relatives, friends, or other non-occupants look to secure service in their name for an otherwise delinquent or uncreditworthy premise resident. EAP recommends the addition of a new subsection, 52 Pa. Code § 56.35(b)(3), which states as follows:

“A public utility may require the payment of an outstanding balance or portion of an outstanding balance if the applicant is applying for service at a property still occupied by a prior customer who accrued an outstanding balance at the property for which service is requested, not exceeding 4 years from the date of service request. A public utility may establish that a customer still resides at the property for which residential service is requested through the use of mortgage, deed or lease information, field visits, landlord confirmation, or other methods as approved by the Commission. Public utilities shall include in their tariffs filed with the Commission the methods, other than those specifically mentioned in this section, used to determine the applicant’s liability for an outstanding balance.”

These limitations will help protect good paying customers by eliminating further loopholes used by other residential customers to avoid paying overdue balances and still maintain active service.

D. Section 56.38 Payment period for deposit by applicants

Consistent with Section B of these comments, *supra*, EAP is concerned that the proposed amendment language of § 56.38 (a), that applicants “shall have up to 90 days to pay the deposit in accordance with Commission regulations” is vague. EAP believes that similar suggested language as suggested above for Section 56.32(d) should be added here to indicate that an applicant’s deposit must be paid in full by the end of the 90 day period – that is, the 50/25/25 payments each made – or the utility’s typical collection practices may begin. EAP recommends the same amendment to the Commission’s proposed language at § 56.42 (d) as well.

E. Section 56.93 Personal contact

EAP commends the Commission for including the ability of utilities to contact customers by email, text message or other electronic messaging format into this section to satisfy attempted personal contact by the utility. Pennsylvania and its utilities strive to remain at the top of the nation in customer choice, which includes this option to receive utility notices electronically as they do for other routine services such as banking and shopping. Electronic communications afford utilities and customers with a myriad of benefits including reduced costs associated with paper, printing, reproduction, storage, and postage as well as increased speed of transactions – information can be transmitted nearly instantaneously instead of days or weeks of wait time from the postal service.

With regard to the Commission’s request for comment on the privacy protections and customer consent practices that should be required in the context of electronic messaging, EAP notes that existing regulation already indicates that a utility must notify the customer of the company’s intent to share any data with a third party. *See* 52 Pa. Code § 54.8. Additionally, it must provide a convenient method of notifying the entity of the customer's desire to restrict the release of the private information before providing customer information to a third party. Customers may restrict the information in three ways: by returning a signed form, orally, or electronically. *Id.* The Commission could consider adding a subsection (3) under § 54.8(a) to include e-mail address.⁶

⁶ § 54.8. Privacy of customer information.

(a) An EDC or EGS may not release private customer information to a third party unless the customer has been notified of the intent and has been given a convenient method of notifying the entity of the customer’s desire to restrict the release of the private information. Specifically, a customer may restrict the release of either the following:

- (1) The customer’s telephone number.
- (2) The customer’s historical billing data.

(b) Customers shall be permitted to restrict information as specified in subsection (a) by returning a signed form, orally or electronically.

(c) Nothing in this section prohibits the EGS and EDC from performing their mandatory obligations to provide electricity service as specified in the disclosure statement and in the code.

For natural gas utilities, some privacy protections are written into similar regulations on customer choice at 52 Pa. Code § 62.78. These regulations go a step further in elaborating on the electric regulations to read:

§ 62.78. Privacy of customer information.

(a) An NGDC or NGS may not release private customer information to a third party unless the customer has been notified of this intent and has been given a convenient method, consistent with subsection (b), of notifying the entity of the customer's desire to restrict the release of the private information. If the customer does not choose to restrict the release of one of the two restriction options in paragraphs (1) and (2), all of the customer's private information may be released to a third party except for the telephone number. If the customer chooses to restrict the release of private customer information, the customer may restrict information released according to one of the following two restriction options:

(1) Restrict the release of only the customer's historical billing data in the NGDC's standard pricing unit, that is, as denominated by the NGDC.

(2) Restrict the release of all private customer information including name, billing address, service address, rate class, rate subclass, account number and historical billing data in the NGDC's standard pricing unit, that is, as denominated by the NGDC.

(b) Customers shall be permitted to restrict information as specified in subsection (a) by returning a signed form, or by oral or electronic communication.

(c) Nothing in this section prohibits the NGS and NGDC from performing their mandatory obligations to provide natural gas service as specified in the disclosure statement and in 66 Pa.C.S. (relating to the Public Utility Code).

(d) Telephone numbers may not be released to third parties.

EAP notes, however, that both these privacy guidelines for utilities are contained in sections of Commission regulation that deal with consumer choice, not necessarily utility service more broadly. EAP asks the Commission in its exploration of future privacy guidelines to address whether it intends to build upon or utilize these regulations as a basis or foundation for its own privacy guidelines going forward.

EAP believes the most straightforward way to address this issue is for utilities to clearly indicate when / where customers provide their email address that they are agreeing to permit the utility to contact them for all routine matters, which include billing, newsletters, service outage notices, and termination. Insofar as this information is clearly explained at the time the customer

provides the information to the utility, a separate notice regarding consent for electronic notification for termination should not be necessary. Customers should also be responsible for updating their contact information, should they opt-in to these services, as they are responsible to do with other service providers who offer electronic messaging.

In fact, e-mail address protections may already be covered by individual utility company privacy practices, which also includes company business partners, agents, contractors, and affiliates. Member utilities – including their vendors – already have methods in place for addressing undeliverable messages or “bounceback” issues to ensure customers receive information intended for them. EAP directs any specific questions about company privacy practices to individual members.

EAP recommends further stakeholder discussion on drafting Commission privacy guidelines. EAP agrees that guidelines, and not prescriptive regulations, are the best path forward into a future where technology and the related privacy issues are ever-evolving. Guidelines that can be easily revisited and revised as circumstances require will benefit all parties.

F. Section 56.97 Procedures upon customer or occupant contact prior to termination

Although the Commission does not recommend any changes under § 56.97 (a), EAP believes some flexibility could be added to incorporate updated utility practices by way of new technologies. EAP suggests removing the words “authorized” and “employee” from this subsection in order to allow for automated or self-service options. While customers would always be free to contact the utility to get more information about the termination process, some customers may prefer to receive this information via automation either over the phone or the internet. Having to talk to a live utility employee may feel intimidating to those customers who are under threat of termination; additional flexibility in this circumstance would be beneficial. To that end, EAP

suggests a similar removal of the phrase “through its employees” from § 56.97 (b), as many utilities also have the means to help customers establish payment arrangements via their website or other secure, automated methods. Again, this modification would not remove the option for customers to speak directly with utility customer service employees if they choose, but rather broaden the options for customers by removing the present limitation of person-only methods.

EAP recommends a similar change be made under § 56.97 (a) (3) relating to the requirement to provide information about the utility’s universal service programs. First, a broad spectrum of utility customer service employees are trained and equipped to explain and enroll applicants and customers into universal service programs, not only the program administrator. Accordingly, EAP recommends striking this requirement from the Commission’s proposed language. Second, EAP does not believe it is appropriate to require utility employees to provide information on universal service programs to all customers in the termination process. Universal service program eligibility is limited to those with specific incomes. Having to explain universal service programs to all utility customers, regardless of income, would be overly burdensome, time-consuming, and ultimately prove confusing for customers who learn of these programs and are ultimately ineligible to participate. EAP recommends that this language be amended to require utilities to provide information on universal service and customer assistance programs only to those customers the utility knows or reasonably suspects to be low-income or customers who affirm their income would qualify them, or to allow for discretion by utility staff rather than a mandate. To incorporate these changes, EAP recommends § 56.97 (a) (3) read as such:

(3) For low-income customers, information about the public utility’s universal service programs including the methods by which the utility determines eligibility for a program and how to apply for enrollment in a program.

EAP suggests as an alternative to the above recommendation a qualifying sentence be added to read, “For the purposes of this subsection, the utility’s ‘universal services administrator’ is any employee trained to determine eligibility for the company’s universal service programs.” Again, EAP believes that more than one “administrator” (by title) at each company is equipped to explain and enroll customers in universal service programs; we do not believe it is the Commission’s intention to direct all such calls to one utility employee.

G. Sections 56.111-116 Regarding Medical Certificates

EAP offers the following suggestions on streamlining and clarifying the language regarding medical certificates in order to continue to afford the assistance required by the statute while maintaining protections for utilities and other residential ratepayers.

EAP does not agree with the Commission’s proposed strikeout of the present language under §56.111.⁷ EAP believes that the current medical certificate protection does apply to primary or permanent members of the customer’s or applicant’s household. The strikeout proposed by the Commission removes the phrase “or a member of the customer’s or applicant’s household” who might not be the specific individual listed on the utility bill, but whose illness might be aggravated by cessation of service. However, EAP does believe that this protection is and should continue to be limited to residents of the customer’s household, such as children, other relatives, or roommates for whom the utility address is also their primary residence. EAP believes this limitation will help to protect those with serious medical conditions and their families as well as prevent medical certificate fraud or abuse that could occur if a medical certificate is submitted on behalf of a person not residing at the service address.

⁷ Notice of Proposed Rulemaking Order, L-2015-2508421, Annex A, p. 24

Secondly, EAP believes a qualifier is needed in the Commission’s proposed amendatory language to this section in order to further protect all customers from potential medical certificate abuse. Furthermore, the phrasing of “customer or applicant seeking restoration of service” is backward. To address these concerns, EAP recommends the following addition (in bold) to the Commission’s proposed language under this section⁸:

§ 56.111 General provision.

A public utility may not terminate service, or refuse to restore service, to a premises when [a licensed physician, or nurse practitioner has certified that the customer or an applicant seeking restoration of service under § 56.191 (relating to payment and timing) or a member of the customer’s or applicant’s household is seriously ill or afflicted with a medical condition that will be aggravated by cessation of service. The customer shall obtain a letter from a licensed physician verifying the condition and promptly forward it to the public utility] the customer or an applicant seeking restoration of service under § 56.191 (relating to payment and timing) has submitted **an accepted** medical certificate to the public utility for him or herself **or a permanent member of the customer or applicant’s household**. The determination of whether a medical condition qualifies for the purposes of this section resides entirely with the physician, [or] nurse practitioner or physician assistant⁹ and not with the public utility. A public utility may not impose any qualification standards for medical certificates other than those specified in this section.

EAP suggests a streamlining of the Commission’s language relating to “a physician, nurse practitioner, or physician’s assistant” by adding a consolidated definition of “authorized medical certificate signatory” to the definitions under Section 56.2 as below:

Authorized medical certificate signatory — a physician, nurse practitioner, or medical physician assistant

EAP has also added the qualifier “medical” before physician assistant to distinguish the medical professionals appropriately licensed to complete these forms as defined by the appropriate state board of licensure. To that end, EAP recommends the following be added or amended into the regulatory section dealing with definitions (§ 56.2) on physician, physician assistant, and nurse

⁸ Notice of Proposed Rulemaking Order, L-2015-2508421, Annex A, p. 25

⁹ See also suggested streamlined language / definition suggested below

practitioner as below. Language to be struck is bracketed, with Commission recommended amendments or additions to the language underlined and EAP recommended amendments or additions in bold:

Physician – An individual **with an active** license[d] to engage in the practice of medicine and surgery in all of its branches, or in the practice of osteopathy or osteopathic surgery by a jurisdiction within the United States of America.

Medical Physician assistant—An individual **with an active** license[d] by the State Board of Medicine in this Commonwealth, who provides any medical service, as directed by the supervising physician licensed to practice medicine in this Commonwealth, when the service is within the physician assistant’s skills, training and experience, forms a component of the physician’s scope of practice, is included in the written agreement and is provided with the amount of supervision in keeping with the accepted standards of medical practice. See 49 Pa. C.S. §18.51(b) (relating to the role of physician assistant).

Nurse practitioner—A registered nurse **with an active license by the State Board of Nursing of this Commonwealth granted in accordance with 49 Pa. Code §21.1 or a certified registered nurse practitioner with an active** license[d] by the State Board of Nursing in this Commonwealth [who is certified]granted [by the State Board of Nursing] **in accordance with 49 Pa. Code §21.251**; [in a particular clinical specialty area] and who, while functioning in the expanded role as a professional nurse, performs acts of medical diagnosis or prescription of medical therapeutic or corrective measures in collaboration with and under the direction of a physician licensed to practice medicine in this Commonwealth.

EAP believes further clarification can occur if the portion of Section 56.113 which further defines medical certifications is consolidated into Section 56.2 on definitions, as suggested below; suggested subsection (iii) is from 56.113(1)-(5). The following incorporates the updates recommended by the Commission in order to comply with the revised statute, as well as the additional EAP language in bold; single brackets indicate Commission-proposed strikeout and double brackets indicate EAP suggested strikeout.

Medical certificate—A written document, in a form approved by the Commission that:

- (i) Certifies that a customer or member of the customer's household is seriously ill or has been diagnosed with a medical condition which requires the continuation of service to treat the medical condition.

(ii) Is signed by a licensed [physician, nurse practitioner, or physician assistant] **authorized medical certificate signatory.**

(iii) Includes:

(1) The name and address of the customer or applicant in whose name the account is registered.

(2) The name and address of the afflicted person and relationship to the customer or applicant.

[(3) The [nature and] anticipated length of the affliction.]

(4)(3) [The specific reason for which the service is required.] **The termination date of the medical certificate, if it is shorter than 30 days.**

(5)(4) The name, office address and telephone number of the certifying [[physician, [or] nurse practitioner, or physician assistant]] **authorized medical certificate signatory.**

(5) The signature of the certifying [[physician, nurse practitioner, or physician assistant]] **authorized medical certificate signatory.**

(6) **The Pennsylvania medical license number of the certifying authorized medical certificate signatory.**

(iv) **Certifications originating from a medical professional must be on letterhead.**

The additional language offered regarding the requirement of the authorized medical professional's license number as well as a requirement that the certification be on the medical professional's letterhead or other official paperwork if it is not on a utility-generated form are meant to afford protection for the utility against fraud or medical certificate abuse. Licensed medical professionals utilize their license number for a variety of routine matters, including items such as prescriptions, in order to ensure validity and avoid fraud. Medical certifications should be included in this, and many utilities have not had any issue within their service territories successfully requesting this information from practicing professionals.

In addition, EAP continues to agree with both the Commission's and advocates' position that utilities are not in the position to determine who qualifies for a medical certificate. The Commission's regulations also state that a medical certificate, once approved, is valid for 30 days. Accordingly, with this clear limitation, there seems to be no reason for the customer to provide or

for the utility to know the anticipated length of the affliction on the form of a medical certificate unless such condition would last fewer than 30 days. Utility collection efforts could continue if a medical certificate was necessary for a shorter period of time than the default 30 days. On the other hand, if a condition is such that it requires a stay past the initial 30 days of the first medical certificate, a customer would need to apply for a medical certificate renewal, regardless of the information indicating length of affliction on the initial certificate. Therefore, EAP recommends strikeout of Commission’s revised subsection (3) requiring this information and instead consolidating as above.

§ 56.112 Postponement of termination pending receipt of certificate.

EAP recommends striking this section following the Commission’s determination of changes necessary in its Final Order on Chapter 14 Implementation (Docket No. M-2014-2448824) which dealt with the form a medical certificate must take in light of changes to the statute. At that time, the Commission found that the “General Assembly gave clear and unambiguous direction on two key aspects of medical certificates: that they be written documents and that they be signed. Accordingly, Section 56.113’s allowance of verbal medical certificates is legally incompatible with this new definition.”¹⁰ However, EAP disagrees with the Commission’s finding that it does not impact the regulations at 52 Pa. Code § 56.112 which provides for a three-day postponement of termination pending receipt of a medical certificate.¹¹ All customers are given a 10-day notice prior to termination. In addition, the utility must make an attempt at personal contact three days prior to the anticipated shut-off date. This section now serves as a duplication of the three-day personal contact requirement prior to termination. All customers, regardless of medical status, receive ample notice in the termination process to obtain a medical certificate, if

¹⁰ Final Order, *Chapter 14 Implementation*, Docket No. M-2014-2448824, p.11-12

¹¹ Final Order, *Chapter 14 Implementation*, Docket No. M-2014-2448824, p.12

needed. The way this regulation is presently worded, now that oral medical certificates are invalid, permits a customer to call his or her utility and continually state that a medical certificate is being processed in order to hold termination for three days. Utilities immediately suspend termination activity upon receipt of a valid medical certificate, which now must be in a written format only. This section, in effect, is now a loophole around the Commission's and the statute's provision against oral medical certificates and should be eliminated.

Subsequently, the following sections as they are presently numbered would require adjustment for this eliminated section. For the purpose of these comments EAP has continued to reference them as they are currently numbered.

§ 56.113 Medical certifications.

EAP recommends the definition of a medical certificate be relocated under the definitions section (§56.2) as noted above. EAP does not agree with the Commission's proposed amendatory language to provide a utility-developed medical certificate form publicly on its web site. EAP member utilities believe that making the form publicly available, should they choose to develop one, would open the door for increased medical certificate abuse by way of forgery. Not all utilities will want or plan to make their own forms, but in order to protect utilities and other customers from potential abuse of this protection, the utility-generated form should instead be made readily available at a medical professional's request and not for download on a web site. A revised Section 56.113 to address this concern would read:

“All medical certifications must be in writing. Public utilities may develop a medical certificate form. The public utility's medical certificate may not be mandatory. Any medical certificate form developed by the public utility shall be made readily available [and placed on the public utility's website] upon request. Medical certificates may be electronically transmitted and electronic signatures are valid.”

Alternatively, the language could read "... made readily available to an authorized medical certificate signatory." EAP believes this would also help in utility efforts to reduce opportunities for medical certificate fraud or abuse.

§ 56.114 Length of postponement; renewals

EAP continues to be concerned about abuse of medical certificate protections. There is no doubt that there are customers for whom electric or gas service is critical in the context of an illness and who require the additional protections a medical certificate affords. However, there is also no other protection offered to customers in need that can be extended indefinitely without ever addressing any of that customer's arrears. Low-income customers enrolled in universal service programs are asked to make good faith payments to the utility to address their debt. The purpose of this treatment is twofold: to encourage good payment behavior – which usually comes with some portion forgiven by the utility – by the individual customer, and to help ease the burden of uncollectable expenses on the remainder of the customer base. EAP believes those customers utilizing the protection of a medical certificate should be held to the same standard as other payment-troubled customers enrolled in universal service programs.

Medical certificates are intended as a protection to ensure service is maintained, not as a bill forgiveness program. As the Commission noted in its Final Order as well, "medical certificates are intended to assist vulnerable consumers with serious health conditions maintain utility service – but are not intended to allow a customer to avoid paying for utility service."¹² Should a customer need further financial assistance beyond what is afforded by a medical certificate and available renewals, the utility can evaluate their income eligibility for additional universal service programs. Customers who are in dire financial straits should also consider application for financial assistance

¹² Final Order, *Chapter 14 Implementation*, Docket No. M-2014-2448824, p.4

that is available through the state or federal government (such as disability insurance) that can help them afford all their bills, not just utility service. EAP member utilities continue to be concerned about the costs associated with inability to collect on arrears for customers with active medical certificates. To that end, EAP recommends the following changes to this section as underlined (added) and struck out / bracketed (removed):

§ 56.114. Length of postponement; renewals.

Service may not be terminated for the time period specified in a medical certification; the maximum length of the certification shall be 30 days.

- (1) Time period not specified. If no length of time is specified or if the time period is not readily ascertainable, service may not be terminated for at least 30 days.
- (2) Renewals. Certifications may be renewed in the same manner and for the same time period as provided in § § 56.112 and 56.113 (relating to postponement of termination pending receipt of certificate; and medical certifications). [and this section if the customer has met the obligation under § 56.116 (relating to duty of customer to pay bills). In instances when a customer has not met the obligation in § 56.116 to equitably make payments on all bills,] [t]The number of renewals for the customer's household is limited to two 30-day certifications filed for the same set of arrearages. [In these instances] Once the two renewals are exhausted, the public utility is not required to honor a third renewal of a medical certificate and is not required to follow § 56.118(3) (relating to right of public utility to petition the Commission). The public utility shall apply the dispute procedures in § § 56.151 and 56.152 (relating to public utility company dispute procedures). When the customer eliminates these arrearages, the customer is eligible to file new medical certificates.

§ 56.117 Termination upon expiration of medical certification.

When the initial and two renewal certifications have expired, the original ground for termination shall be revived and the public utility may terminate service without additional written notice, if notice previously has been mailed or delivered within the past 60 days under § 56.91 (relating to general notice provisions and contents of termination notice). The public utility shall comply with §§ 56.93—56.96.

H. Section 56.163 Commission informal complaint procedure

EAP is concerned about the Commission's proposed language to provide customers copies of documents submitted to the Commission's Bureau of Consumer Services following the

initiation of an informal complaint process. The provision of such documents undermines the goal of the informal complaint process: the efficient, collaborative resolution of consumer complaints. EAP is further concerned that any change to the informal complaint process align with the Commission's future privacy policies and guidelines. Without such protections already in place, utilities are wary of how proprietary company information as well as the privacy or personal security of the complainant would be protected by this process and associated right-to-know requests.

The informal complaint process is designed for all parties to reach an agreement or compromise on the disputed issues before the formal stage. Should the Commission continue down a path that would require utilities or BCS staff to provide documents to complainants, it may, in effect, eliminate the informal complaint process. Utilities, knowing that the response documents will be viewed by customers and potentially the public, will be reluctant to offer any information which might be construed to compromise their own internal processes, procedures, security, or company or customer privacy information. This distinction between the present formal and informal process is further highlighted by the requirement that a formal complaint can only be filed by the customer of record or another authorized person on the account; an informal complaint can be filed on a customer's behalf.

Furthermore, EAP does not believe that the solution here is to provide redacted documents at the informal complaint stage, nor does EAP agree that, without such documents, a complainant's "due process rights" are compromised. The complainant's "due process" right, should he or she be dissatisfied with the informal complaint process, is to file a formal complaint, which is governed by the administrative code.

EAP believes the present informal complaint process works to mitigate issues to avoid their escalation into formal cases; the addition of this regulatory language as proposed by the Commission may undermine this effort. Given that this proposal is not required due to any change in the statute, EAP recommends the Commission table any changes to the informal complaint process at this time and convene a technical conference or other small working group among stakeholders to clarify how best to balance transparency with privacy concerns in dealing with complaints.

I. Section 56.231 Reporting requirements

EAP appreciates the Commission's acceptance of its prior comments under this section relative to the reporting requirements of utilities regarding accounts with arrears in excess of \$10,000.00 and the number of medical certificates requested and issued. However, EAP continues to believe further data points would be beneficial in understanding the means by which utility accounts accrue such high balances. Primarily, EAP would recommend the inclusion of the accounts' use of medical certificates. Active termination processes are deferred upon notification that a member of the household suffers from a medical condition that would be worsened by the termination of utility service. While Chapter 14 requires a separate report on medical certificates, EAP believes that it is important to know the status of medical certificates on higher-arrearage accounts as a medical certificate, or a series of medical certificate renewals, may result in increased, or stayed arrearages. The Section 1410.1(3) report should include a data point to identify if the customer has had any medical certificates associated with the debt.

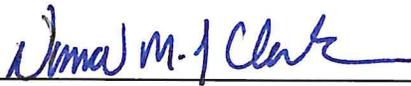
EAP also believes that the Commission and the legislature may be informed by the inclusion of other additional data points in this report not limited to: whether the accounts are involved in a bankruptcy filing; whether the accounts involved the termination process and a

Utility Report; whether the accounts have engaged in theft of service; and whether the accounts have filed high bill disputes. EAP recommends that the Commission also consider the exclusion of CAP pre-program arrears, as these dollars are “frozen” by the customer’s participation in the program and therefore uncollectable by the utility. These additional data points can show whether, and potentially for how long, accounts have been able to accrue additional balances by way of continuing to delay payment and still avoid termination.

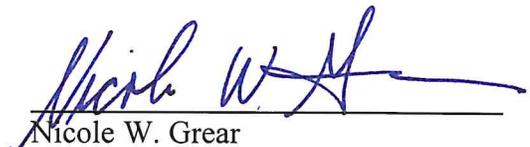
III. CONCLUSION

The goal of the comments contained herein is to encourage the Commission to continue to strive toward an optimum balance between the two main goals of Chapter 56: protecting vulnerable customers and helping them to maintain essential utility service while maintaining costs for the remainder of the residential rate base. EAP respectfully requests that the Commission consider these comments as it develops a Final Order on Chapter 56 regulations.

Respectfully submitted,



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Date: April 19, 2017